

WEST NORTHAMPTONSHIRE COUNCIL

21 March 2024

Report Title **Review of arrangements for Planning Committee**

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List of Appendices

Proposed updates to the constitution (showing tracked changes)

1. Purpose of Report

- 1.1 At its meeting on 18 May 2023, the Democracy and Standards Committee (“the Committee”) considered the report of the Planning Advisory Service and made recommendations to full Council in relation to the structure and operation of the Council’s planning committees. The Committee undertook to review the revised arrangements after a period of six months. At its meeting on the 15 November, the Committee considered how to undertake the review and determine that more time should be allowed for the new arrangements to become embedded.
- 1.2 The Committee considered the issue again at its meeting on 11 March, where they considered the outcome of a review undertaken by the Assistant Director of Planning in conjunction with the Monitoring Officer, Legal and Democratic Services Officers and Chairs and Vice Chairs of the planning committees. This report explains the finding of the review and contains recommendations to Council from the Committee.

2. Executive Summary

- 2.1 At its meeting of the 15 November, the Committee;
- a) Considered the changes adopted by the Council and determined that a review should be undertaken and reported to Council on 21st March 2024.
 - b) Considered that further evidence and information was required in order to conduct a review, including statistical data regarding application numbers and the number of speakers. The role of Planning Policy Committee should also be considered during the review.
- 2.2 At its meeting on 15 November meeting there was also feedback from the Chairmen/Vice Chairmen of the planning committees. The minutes from the 15 November meeting recorded a number of considerations, including:
- It was premature to take a decision. Further data was required and Call-ins should be reviewed.
 - The number of cancelled meetings and reasons for cancellation should be reviewed.
 - There were no concerns about the number of committees. Two appeared to be sufficient.
 - Meeting start times had been discussed at length at Council and it was advised not to revisit the matter.
 - There were some problems with the technology during earlier meetings, but the issues had been resolved.
 - The role of the Planning Policy Committee should be considered as part of the review.
 - The Chairs of the planning committees should be canvassed during the review.
 - The March meeting of the Democracy and Standards Committee should be brought forward to enable the review to be reported to Council on 21st March.
- 2.3 In order to prepare this report meetings occurred with the Planning Chairmen and Vice Chairs and their feedback has been taken into account in preparing the recommendations in this report.
- 2.4 The review analysed the volumes of applications referred to the planning committees (set out in tables in this report).

3. Recommendations

- 3.1 It is recommended that the Council note and agree the proposed changes outlined below and at appendix 1, as recommended by the Democracy and Standards Committee:
- a) Agree to retain the North, South, Strategic Planning Committee and the Planning Policy Committee as currently structured.
 - b) Note the success of the planning policy workshop meetings undertaken in January and February 2024 and held ancillary to the Planning Policy Committee and endorse such an approach in the future where it is appropriate to do so.

- c) Approve the changes to the Council's constitution set out below and at Appendix 1 to ensure consistency of decision making by the planning committees, including:
- i. Clarifying that where an outline/hybrid outline application has been determined by a particular planning committee that subsequent reserved matters or full applications (where they are required to be referred to planning committee) for the same site should be determined by the same planning committee.
 - ii. That the constitution be clarified with respect to large scale renewable energy projects, such that all 'major' category renewable energy projects are referred to the Strategic Planning Committee.
 - iii. That changes be made to the planning protocol regarding the speaking rights of Parish Council representatives, such that on major development proposals a representative from an adjoining Parish be able to speak. That the final wording should state speaking rights be given to:
 - A representative of a Parish Council in whose Parish the application relates.
 - On 'major' category applications a representative of an adjoining Parish Council where the Parish Council has commented on the proposal.
 - iv. That changes be made to the constitution with respect to the member call-in policy:
 - (i) To allow 24 calendar days (rather than 21 days) for calls-ins to occur following consultation commencing on planning applications.
 - (ii) That call-ins must always involve a planning reason, stated in writing by the Ward Councillor.
 - (iii) That it be stated in the updated call-in policy that all call-in's will be published on the public facing planning website.
 - (iv) That Councillors be asked to clarify whether they still wish the planning application to come to planning committee once the officer recommendation is known.
 - v. Requests that the Assistant Director of Planning review how the call-in policy is administered, to ensure prompt acknowledgment of call-ins and clear clarification be given as to whether a valid call-in has occurred. That this be followed up with training for Councillors.
 - vi. That the planning protocol be updated to clarify that when a Councillor has called in a planning application they must withdraw from sitting on the planning committee for the specific item they have called in. They can then speak on the item, but not as member of the planning committee.

4. Reasons for Recommendations

- 4.1 To advise and update Council on the outcome of the review and the changes proposed to the Planning Committee Structures to ensure compliance with legislation, that best practice is reflected and to add clarity and certainty to those involved in the decision-making process.
- 4.2 To ensure consistent and lawful decision making.

- 4.3 To improve and clarify speaking rights for Parishes, thereby facilitating greater engagement with Parish Councils in the planning process.
- 4.4 To improve and add clarity to the operation of the call-in policy.
- 4.5 To ensure that the planning protocol clearly sets out expectations of Councillors who sit on a Planning Committee and have called in an application for consideration by the same planning committee.

5. Report background

- 5.1 At the 15 November meeting of the Committee it was requested that data be provided analysing planning committee workloads. It should be noted that during the three summer months following the creation of the North/South Area Planning Committees in May 2023 there was only one North Planning Committee meeting. In the same period no South Planning Committee meetings were cancelled, but the August South Planning Committee meeting had an exceptionally high number of reports. This was due in part to a spike in the number of applications in one Ward being referred to planning committee, but this proved to be a one-off situation. The introduction of new Planning software for North area planning officers at this time did in effect delay some reports, and this ultimately caused North Planning Committee meetings to be cancelled. It is considered in hindsight that the first three months did not paint a picture reflective of the application volumes that would ordinarily be referred to the two new Area Committees over a sustained period of time.
- 5.2 The tables below show application volumes at each of the monthly meetings for the past 6 months (2nd column, left to right) only to the South, North and Strategic Planning Committee (Sept 2023 to Feb 2024). This timescale is considered to be more representative of application volumes likely for the next 6/12 months. The third column shows the number of these applications referred due to them being classed as ‘Major’ category applications or other categories (such as application submitted by a Councillor or member of Planning staff) of application automatically referred to planning committee. The fourth column shows the number referred at each meeting by a Ward Councillor, and which ward.

North Planning Committee Month	Total Report No.	Referred to Committee as not delegated (e.g. major Application)	Referred to Committee by a Ward Cllr (For Ward – see key below table)
September 2023	Cancelled	N/A	N/A
October 2023	6	2	4 (a, c, d, d)
November 2023	4 (1 withdrawn off agenda)	3	1 (b)
December 2023	2	2	0
January 2024	4 (1 withdrawn off agenda)	2	2 (e, f)

February 2024	4	2	2 (f, f)
Totals	20	11	9

Key: Wards Subject to planning committee report referrals and total number:

- (a) Abington & Phippsville Ward - 1
- (b) Braunston & Crick – 1
- (c) Duston - 1
- (d) Long Buckby - 2
- (e) Moulton – 1
- (f) Woodforde & Weedon - 3

South Planning Committee Month	Total Report No.	Referred to Committee as not delegated (e.g. Major Application)	Referred to Committee by a Ward Cllr (plus Ward)
September 2023	1	0	1 (a)
October 2023	6 (1 withdrawn from the agenda)	4	2 (b, b)
November 2023	2 (1 withdrawn from the agenda)	2	0
December 2023	5 (1 withdrawn from the agenda)	4	1 (c)
January 2024	3	2	1 (d)
February 2024	3	3	0
Totals	20	15	5

Key: Wards Subject to planning committee report referrals and total number:

- (a) Towcester & Roade - 1
- (b) Castle - 2
- (c) Brackley - 1
- (d) Delapre & Rushmere - 1

Strategic Planning Committee Month	Total Report No.	Referred to Committee as not delegated (e.g. Major Application)	Referred to Committee by a Ward Cllr (plus Ward)
September 2023	1	1	0
October 2023	1	1	0
November 2023	2	2	0
December 2023	2		0

January 2024 (Special additional meeting)	1	1	0
January 2024	2	2	
February 2024	1	1	0
Totals	10	10	0

- 5.3 The data shows over the past 6 months that officers referred exactly the same number of reports (20) to both the North and South Planning Committees. Half this number (10) went to the Strategic Planning Committee. It also shows that slightly more applications were referred to North Planning Committee by Ward Councillors, but there were slightly more major category applications going to South Planning Committee, which can be explained by the fact that most of the central area of Northampton is within the South Area.
- 5.4 It is considered the data demonstrates the volume of applications going to each Committee is very similar. Furthermore, the Strategic Planning Committee, despite smaller application volumes has not had any meetings cancelled, the 1-2 applications per meeting often take a whole afternoon to consider. As such the above data supports a recommendation that there is no need to alter the current Committee Structure.
- 5.5 With respect to the Planning Policy Committee reference has been given to reviewing the role of this planning committee. The Planning Policy Committee is an Executive Committee where only the Executive members vote. The purpose of the committee is to try to establish broad consensus about the development of planning policy. Officers were aware that one reason a review might have been requested was about how a broad consensus is achieved in developing planning policy. In January and February of this year the Local Plan team undertook workshop meetings on the Local Plan with all Councillors. These have been very successful and well attended. It is therefore not considered there is a need to make fundamental changes to the committee. Rather it is considered it should be acknowledged how successful the workshops have been and that such an approach should be endorsed by the committee as being of great benefit in ensuring a broad consensus of support from all Councillors to the development of planning policies.

Ensuring Consistent Decision making

- 5.6 One aspect that is consistently raised as very important by Parishes, applicants and objectors to planning applications is consistent decision making. In discussions with the Planning Chairs and Vice Chairs they would expect that once an application site is referred to a particular planning committee (which would then hear representations of third parties, possibly visit the site as well as making a decision) that subsequent connected applications get referred to the same planning committee. This is particularly important with outline (or hybrid outline) planning consents, where the principal of development is decided but issues raised at outline stage may be relevant to the consideration of subsequent reserved matters applications. At present this matter is not addressed in the constitution and a strict interpretation of planning committee referral criteria could result in inconsistent decision making. It is considered that the constitution should be amended to ensure consistent decision making.

5.7 The constitution currently requires large-scale housing and commercial development to be referred to the Strategic Planning Committee. Commercial development is defined as over 10,000 sq. metres. It then states that the Strategic Planning Committee also deals with 'strategically important developments' which in practice fall to the Assistant Director of Planning to identify. In practice the majority of applications the Strategic Planning Committee determines are housing, commercial or renewable energy related. The Strategic Planning Committee since its inception has dealt with a number of 'major' category planning applications for large scale solar farms and anaerobic digestion plants (which by their nature have strategic impacts, often they have large scale landscape impact, but also considerable positive benefit as regards addressing climate change impacts/meeting energy demand). There is considered, in part for consistency purposes, a need to clarify that the remit of the Strategic Planning Committee should include all 'major' category renewable energy projects.

Speaking at Committee Meetings

5.8 No concerns have been raised concerned current speaking rights being either too permissive or too strict. It can therefore be considered that in a broad sense the planning committee speaking rights under the planning protocol have largely operated successfully. The planning protocol does allow some discretion to the Planning Chairmen, it states 'Additional speakers may be allowed at the discretion of the Chair of the Committee.' Understandably, given how contentious some planning Committee items are, and for consistency purposes, the Planning Chairmen prefer to rely on the defined speaking rights, it also makes meetings far easier to clerk and manage.

5.9 Nonetheless one area where the Planning Chairs have been requested to apply their discretion is with regard to Parish Council speaking rights. The relevant speaking criteria is:

(e) A representative of a parish council in whose area the application relates.

5.10 The criteria is not precisely worded (does 'area' mean Parish?) and does not take into account the fact that there has been strong feedback from the Parishes themselves that they consider that many 'Major' scale applications can have substantial impacts on neighbouring Parishes. It should also be noted that Parishes tend to have much smaller geographical areas than Ward Councillor boundaries (which typically cover more than one Parish). It is therefore considered that the speaking rights should be altered to enable on 'Major' scale developments Parish representatives from neighbouring Parishes to speak and to alter 'area' to 'Parish'.

Councillor Call in protocol

5.11 The call-in protocol has previously been reviewed by the Committee. The current protocol requires that *'Call-in requests must be submitted in writing via planning@westnorthants.gov.uk within 21 calendar days from the beginning of the consultation period, or within 7 calendar days from the beginning of any subsequent re-consultation period.*

- 5.12 A number of call-in requests have been declined in the past 12 months as out of time (outside of 21 days), this has been done in a consistent manner. Such declined call-ins tend to be either significantly out of time or marginally out of time (and when marginally out of time call-ins are declined). This has resulted in complaints being received criticising the Council's Planning Service. The vast majority of call-ins are made at the beginning of the consultation period. If planning applications are not dealt with in a timely manner non determination appeals or other adverse consequences can arise (including penalties the Secretary of State can impose on poor performing authorities).As such officers have always wished to apply a reasonable timeframe for call-ins to enable a practicable call-in policy to operate.
- 5.13 Nonetheless in many cases Councillors wish to know whether an application is attracting significant objection or support, or the view of Town or Parish Councils. Where such views only become apparent at the very end of the 21 days consultation period practical logistical difficulties can arise for Ward Councillors to then call in an item on time. It is proposed that allowing 24 days for a call-in will assist to address this.
- 5.14 It has also been noted that some Councillors forward emails they have received requesting an Application be called into planning committee. The problem this creates is that call-ins should appear to be made by the Councillor; even if they are in fact a reflection of Parish or constituent views. Further-more a Councillor call-in should be a public matter (as with all representations made on a planning application), it is after all going to be referred to directly in a subsequent planning committee report. The call-in process could be clarified to ensure that these matters are addressed. In particular to make Councillors aware that their call-in requests will be placed on the public register and therefore are visible to applicants and agents.
- 5.15 A further issue is that some Councillors have complained that there has been delay in their call-ins being acknowledged or clarification being given that they are being treated as valid call-in. It is considered that the acknowledgement process undertaken by the Council's Planning Service should be reviewed (by the Assistant Director of Planning), to ensure prompt acknowledgment of call-ins and that clear clarification is given as to whether a valid call-in has occurred. It is also proposed that there should also be Councillor training (All Councillors) on the call-in policy once the recommendations in this report are implemented.
- 5.16 The Committee suggested the wording of the Constitution be reviewed in relation to the point in time from when the 24 day period begins. It was felt that "from the beginning of the consultation period or within 7 calendar days from the beginning of any subsequent re-consultation period" is sufficiently clear.

Members Speaking at Committee

- 5.17 The Planning protocol states '*Members of the Planning Committees need to take account of the general public's expectation that a planning application will be processed and determined in a transparently open and fair manner, in which members taking the decision will take account of all the evidence presented before arriving at a decision, not take into account irrelevant evidence*

or representations and that to commit themselves one way or the other before hearing all the arguments and evidence makes them vulnerable to an accusation of partiality.'

- 5.18 In practice it is very difficult for a Councillor who has called in an application to a planning committee to remain sitting on that same planning committee and appear completely in-partial. It is for this reason that many Councils require Councillors who sit on a Planning Committee, and who have called in an application to that planning committee, to then remove themselves entirely from the planning committee when such an item is heard. They may speak in their capacity as a Ward Councillor; but do so sit in the public gallery until called forward to speak.
- 5.19 It is therefore recommended to Council that the planning protocol be updated to clarify that when a Councillor has called in a planning application they must withdraw from sitting on the planning committee for the specific item they have called in (the Councillor would then sit in the public gallery). They can then speak on the committee item, but not as member of the planning committee.

6. Issues and Choices

- 6.1 The Council can choose not to accept any or all of the recommendations of the review, however these reflect best practice and are aimed at improving and providing further clarity around the decision making process.

7. Implications (including financial implications)

7.1 Resources and Financial

- 7.1.1 There are no financial implications arising directly from the recommendations set out above.

7.2 Legal

- 7.2.1 The Council is the Local Planning Authority for West Northamptonshire and has a quasi-judicial statutory responsibility to determine planning applications. This is carried out through a combination of delegations to officers and decisions by Planning Committees. These committees have to carry out this responsibility with regard to the Council's wider duties under the Human Rights Act 1998 in relation to a fair hearing and more widely in relation to the Council's public law decision making responsibilities. The proposals enable the Council to meet its statutory responsibilities as a local planning authority.

7.3 Risk

- 7.3.1 There are no significant risks arising from this report. Reviewing the governance arrangements helps to reduce any risks that could arise as a result of the arrangements not supporting lawful decision making and the delivery of Council services.

7.4 Consultation and communication

7.4.1 Officers involved in the planning decision making process and Chairs and Vice Chairs of the planning committees have been consulted as to the proposals contained within this report.. There has been no wider public consultation in relation to this report.

7.4.2 The outcome of this report will be communicated to the public and key stakeholders via the Council's corporate communication channels.

7.5 Consideration by Overview and Scrutiny

7.5.1 Not applicable to this report.

7.6 Climate Impact

7.6.1 There is no significant climate impact to consider in relation to the recommendation.

7.7 Community Impact

7.7.1 The requirement for Planning Committees to take place further away from the area of residents has been managed by the webcasting of meetings to enable more residents to attend remotely. The report has recommendation which seeks to provide clarity/improve the speaking rights of Parishes.

8. Background Papers

None